



# The Organization for Economic Cooperation and Development

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## Summary

The Organization for Economic Cooperation and Development (OECD) is an intergovernmental economic organization in which the 30 member countries discuss, develop and analyze economic and social policy and shares expertise and exchanges with more than 70 developing and emerging economies. The member countries include Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, The Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States. While all of the member countries are considered to be economically advanced and collectively produce three-fourths of the world's goods and services, membership is limited only by a country's commitment to a market economy and a pluralistic democracy. In January 2010, Chile signed protocols to complete its entry into the OECD as the 31<sup>st</sup> member. The OECD has also extended invitations to Estonia, Israel, Russia, and Slovenia to open discussions for membership and it has offered enhanced engagement with a view to possible membership to Brazil, China, India, Indonesia, and South Africa.

The member countries rely on the OECD Secretariat in Paris to collect data, monitor trends, analyze and forecast economic developments, research social changes and patterns in trade, environment, agriculture, society, innovation, corporate and public governance, taxation, sustainable development, and other areas to inform their discussions and to assist them in pursuing their efforts to develop common policies and practices. The U.S. has sparred periodically with other OECD member countries over various issues, including U.S. antidumping laws. Karen Kornbluh was appointed by President Obama to serve as the U.S. Ambassador to the OECD. Key issues for Congress include OECD work on coordinating national approaches to curtailing bribery and the illicit use of tax havens. Congress appropriated about \$117 million to the OECD in FY2008.

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## Background

The United States, along with a number of European countries, formed the predecessor organization to the OECD, the Organization for European Economic Cooperation (OEEC) in order to administer aid under the Marshall Plan for the reconstruction of Europe after WW II. In 1961, the OECD was formed to take over from the OEEC with a mandate to build strong economies in its member countries, improve efficiency, hone market systems, expand free trade, and contribute to development in industrialized as well as developing countries. Presently, the 30 member countries of the OECD are focusing an increased amount of their attention on developing and newly emerging economies that adopt free market systems. As a result of this broader perspective, the OECD is shifting its emphasis from focusing exclusively on the members of the OECD to assessing the manner in which various policy issues affect a broad range of countries, including the impact globalization is having on world trade, wages, and industrial development.

The OECD is organized around three main bodies: the Council, the Committees, and the Secretariat. Committees are comprised of representatives of all the member countries. The overriding committee is the Council, which has decision-making power. It is composed of one representative for each member country, generally at the level of Ambassador, gives guidance to the OECD, and directs its work. Since the work agenda is set by unanimous consent by the Council, a veto by a Council member removes an item from the agenda. The Council meets at the ministerial level once a year, when foreign, finance and other ministers from member countries raise issues and set the priorities for OECD work for the coming year. About 200 committees, comprised of some 40,000 senior government officials from the member countries meet to review and contribute to work that is conducted by the Secretariat. In many cases, these committees serve as conduits for providing information on work that is being conducted by officials among the OECD member countries on economic issues. Furthermore, the Council determines the OECD's budget, which presently amounts to about \$470 million. The United States, which appropriated about \$117 million in FY2008, based on the relative size of its economy, is the largest contributor to the OECD's budget.

The Secretariat is comprised of a staff of about 2,500, mostly economists, scientists, lawyers, and other professionals, who are organized into directorates to support the work of the Committees to deliver the work program approved by the Council. As a result, the Secretariat is organized along substantive areas to mirror the work of the Committees, although the structure is flexible enough to handle cross-disciplinary studies. There are 15 directorates that focus their work in such areas as: employment and labor; environment and economics; trade and investment; biotechnology, agriculture and science; public management; and globalization and development. One directorate collects data, monitors trends, analyzes and forecasts economic developments, while other directorates research social changes or evolving patterns in trade, environment, agriculture, technology, taxation, and more.

In the 1990s, the OECD, under the direction of its member countries, including the United States, spearheaded an international agreement to outlaw crimes of bribery and it continues to coordinate efforts that are aimed at reducing the occurrence of money laundering and corruption. Also, the OECD is a pivotal player in promoting corporate codes of conduct that attempt to develop a voluntary set of standards for multinational firms that can be applied across national borders. In addition, the OECD provides a vast amount of statistical information and data on the member countries that are made comparable to facilitate comparison and analysis. These data include

national accounts, economic indicators, labor force and employment, migration, education, energy, taxation, tourism, and environment.

## **OECD Issues**

The OECD is a strong proponent of the view that increasing world economic growth and welfare is best supported by a free and open flow of goods, services, and capital. As a result, it views its own role in this process as that of a leading proponent of the benefits of globalization and as a facilitator in promoting a dialogue among its members and with developing countries to develop institutions and regulatory structures that can make these benefits available to the OECD members and to developing countries. The core work of the OECD Committees and Working Groups is organized around five main areas in order to provide the members with studies, technical knowledge and expertise, and to help develop guidelines and codes. These areas include:

***Trade and Investment Liberalization.*** Work in this area includes promoting the benefits of open markets and analyzing trade as it relates to competition policy, the environment, labor standards, and foreign investment. Work is also being conducted on the areas of export credit policies, electronic commerce, corporate governance and codes of conduct, international taxation principles and the linkages between trade, investment and economic development.

***Policy Reform and Development.*** This work focuses on the newly emerging economies of Russia and South Eastern Europe where the OECD is attempting to promote peace, stability, and economic and social progress by achieving economic integration. The OECD is attempting to establish standards for fair and non-discriminatory treatment for domestic and foreign investors, with the full protection of property rights.

***Managing New and Evolving Technologies.*** This area focuses on developing the necessary ground-work for the approval, adoption, and dissemination of new technologies to non-members. Such technologies include biotechnology and related food safety issues.

***Public Governance.*** National governments face increased challenges coordinating trade and economic issues. The OECD is working with national governments to find ways to include a broader representation of groups and viewpoints to satisfy public expectations for input into policy issues.

***Social Protection.*** Globalization has created fears that segments of national economies will be permanently displaced. The OECD is working with national governments to address the needs of individuals and the member countries to utilize the human resources in each member country.

## **OECD and the Financial Crisis**

The OECD also moved in 2008 to apply its expertise and experience to respond to the financial crisis and economic downturn that began to affect most of its members. On December 23, 2008, the OECD published its contribution<sup>1</sup> to the ongoing discussion about the optimal policy course

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<sup>1</sup> The OECD report is titled, *OECD Strategic Response to the Financial and Economic Crisis: Contributions to the Global Effort*, OECD Report C(2008)191/Final, December 23, 2008. A copy of the report is available at:

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to follow to recover from the current financial and economic crises. The report provides a comprehensive strategy for OECD and non-OECD members to follow in order to lessen the negative impact of the current economic recession and to “put the global economy back on a sustained growth trajectory.”<sup>2</sup> This approach is based on the OECD’s experience in the areas of market reform and corporate governance. In particular, the OECD focused its response on two priority areas: (1) finance, competition, and governance; and (2) restoring sustainable long-term growth. In the first area, the OECD argues that it is particularly well suited to provide an “institutional framework for an ongoing dialogue between different policy communities.” The OECD report argues that this dialogue should focus on such issues as: transparency; corporate governance; competition; tax; pensions; and financial education.

In the second area, restoring sustainable long-term growth, the OECD argues that it can contribute as a result of its expertise in such areas as: open markets; employment; environment; and innovation. In this area, the report argues in favor of low carbon paths to growth; ecology-friendly innovation, and knowledge creation. In addition, the OECD approach favors a “healthy balance between governments and markets,” and attempts to “define exit strategies for governments to withdraw their intervention in the private sector,” once the current crises have been resolved.

## **Tax Havens and the OECD**

The OECD has addressed the issue of tax havens in various forms since the organization was formed in 1961. It issued its first convention on tax havens in 1963, with the *Draft Double Taxation on Income and Capital*. In 1977, the OECD issued its first major update of its Draft with the *Model Convention and Commentaries* to reflect the experience of OECD members with bilateral treaties, the increasingly sophisticated methods for tax evasion, and the development of new and more complex international business activities and relations. In 1991, the OECD again updated its tax convention to reflect the liberalization in capital markets and the globalization in business activities with the *Model Tax Convention on Income and Capital*, the forerunner to the current convention.

The United States, as an OECD member country, recognizes and abides by the provisions of the OECD model tax convention. Nevertheless, the United States has its own model income tax convention, last updated in 2006, which it uses to sign bilateral tax conventions with partner countries. Currently, the United States has signed bilateral tax treaties with nearly 70 other countries, including an income tax treaty with Malta that is awaiting Senate approval. According to the U.S. Department of the Treasury, the United States has reservations with the first twelve articles in the OECD model tax convention that deal with taxes on income. In general terms, the U.S. reservations focus on differences between the U.S. and OECD tax conventions with the way certain terms are identified and the way certain taxes are applied to various forms of income, such as royalties, certain types of deferred payments, taxes on branch profits, and state and local taxes.

Recently, tax havens have attracted increased attention from policymakers as a result of new efforts to curtail the use of tax havens for tax avoidance, combined with efforts since the terrorist

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[http://www.olis.oecd.org/olis/2008doc.nsf/LinkTo/NT00007AB2/\\$FILE/JT03257899.PDF](http://www.olis.oecd.org/olis/2008doc.nsf/LinkTo/NT00007AB2/$FILE/JT03257899.PDF)

<sup>2</sup> *Ibid.*, p. 3.

attacks of September 11, 2001 to track financial flows that may be diverted to illegal activities. Also, some policymakers are targeting tax havens as part of their efforts to increase government revenues during the current economic downturn and to improve the integrity of the financial system in the wake of the financial crisis. At the G-20 Summit meeting in London in April 2009, the G-20 leaders indicated that they were adopting measures to curtail tax havens and to target “non-cooperative jurisdictions.” In particular, the Summit communiqué stated that the G-20 members, “... stand ready to take agreed action against non-cooperative jurisdictions, including tax havens. We stand ready to deploy sanctions to protect our public finances and financial systems. The era of banking secrecy is over.”<sup>3</sup>

In addition, on May 4, 2009, President Obama announced a set of proposals to, “crack down on illegal overseas tax evasion, close loopholes, and make it more profitable for companies to create jobs here in the United States.”<sup>4</sup> The Administration’s proposal reportedly is intended to ensure that the U.S. tax code does not “stack the deck against job creation” in the United States and that it reduces “the amount of taxes lost to tax havens.”

On July 13, 2009, the OECD released its latest progress report on jurisdictions that have agreed to comply with the internationally agreed tax standard, which was adopted by the G-20 in 2004 and the United Nations in 2008.<sup>5</sup> In this latest version of the progress report, there are no jurisdictions that are listed as non-cooperative jurisdictions. The standard set by the G-20 is that a jurisdiction must sign agreements with at least 12 other jurisdictions to be considered to have substantially implemented the agreement.

According to the OECD, standards on transparency and exchange of information developed by the OECD were endorsed by all of the key countries, including jurisdictions which had opposed exchanging bank information. This standard has been universally accepted and endorsed by the United Nations, which has incorporated the OECD standard in the UN Model Tax Convention. In 2009, more than 300 agreements were signed by jurisdictions which previously had been identified by the OECD as not substantially implementing the standard.<sup>6</sup> In September 2009, the OECD restructured and strengthened the Global Forum on Transparency and Exchange of Information for Tax Purposes to “monitor and trigger effective exchange” of information. The Global Forum is comprised of 91 members, including all G20 members, all OECD countries and all offshore jurisdictions. It has a three year mandate to peer review all the members and other jurisdictions which may require special attention. The peer reviews will encompass two phases: Phase 1 will review the legal and regulatory frameworks while phase 2 will assess the practical implementation of the standard. The reports will include recommendations to improve the situation in the reviewed jurisdictions.

In addition to the issue of tax havens, the OECD has worked to build international support for a set of standards for transparency and the exchange of information in tax matters. The principles of transparency and exchange of information are believed to be essential to ensure that economic activity is conducted in a fair and transparent manner by combating tax fraud and tax evasion.

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<sup>3</sup> *Global Plan for Recovery and Reform; the Communiqué From the London Summit*, G-20, April 2, 2009.

<sup>4</sup> *Remarks by the President on International Tax Policy Reform*, May 4, 2009.

<sup>5</sup> The complete assessment is contained in: *Tax Cooperation: Towards a Level Playing “Field – 2008 Assessment by the Global Forum on Taxation*, the Organization for Economic Cooperation and Development, 2008.

<sup>6</sup> *Promoting Transparency and Exchange of Information for Tax Purposes: A Background Information Brief*, the Organization for Economic Cooperation and Development, February 5, 2010.

Both OECD and non-OECD countries jointly produced the 2002 *Model Agreement on Exchange of Information on Tax Matters*. The standards of transparency and exchange of information that comprise the basis for the Model Agreement on Exchange of Information on Tax Matters subsequently were adopted by the G-20 Finance Ministers in 2004 and by the UN Committee of Experts on International Cooperation in Tax Matters in October 2008. The standards are the same as those specified in Article 26 of the OECD's Model Tax Convention.

## Issues for Congress

Among some consumer groups, there is growing concern over the economic impact of globalization. These concerns, in turn, are spurring some groups to single out the OECD for criticism as a result of the OECD's leading role as a proponent of free trade, open markets, and globalization. One criticism, in particular, that is expressed by some groups, is the view that the OECD represents a danger to national sovereignty because they claim it is one among a number of international bodies that exceeds the authority of national governments, yet is accountable to no one. Others view the OECD as an economic cartel dominated by the United States and serving mainly the economic and political interests of the United States.<sup>7</sup> These groups also argue that the OECD is pursuing free trade and open markets at the expense of the poorest and least developed countries; that the pursuit of free market economics worsens further the disparity of income between the richest and the poorest countries; and that the OECD is promoting the expansion of multinational corporations at the expense of national governments and national economic interests.

The OECD is the creation of its member countries and, therefore, reflects their interests and views of its members and is independent of any other international organization,. As such, it contends that it has no hidden or independent agenda of its own, but that its agenda is set by its members. It also argues that free trade and open markets have proven to be the best route to economic development and to higher national incomes and that its members promote better understanding of the economic and social problems of developing countries.. The United States plays a leading, but not a commanding, role within the OECD. This means that, at times, the United States carries a larger than average portion of the burden for determining the agenda of the OECD and in helping to direct the course of policy developments. This also means that the United States often is a target for criticism from groups that object to the policies or the performance of the OECD.

The United States plays an active role in the full array of OECD activities, including chairing 29 committees. In support of the needs of developed countries in the WTO negotiations, the OECD has pursued analytical research into: the impact regional trade agreements are having on the multilateral trading system; the agricultural policies of OECD countries; the issue of labor mobility; the impact of barriers to trade in services; and the trade policy implications of changes in the structure of national economies. U.S. delegates actively participated in efforts to strengthen competition and antitrust policies within OECD countries, and to extend and strengthen the OECD's anti-bribery convention. In addition, U.S. delegates have supported efforts within the OECD to review national regulatory reform efforts, because they argued that targeted regulatory reform, especially transparency, can benefit domestic and foreign stakeholders alike by improving the quality of regulation and enhancing market openness.

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<sup>7</sup> See *The OECD's Crocodile Tears* at <http://www.flyingfish.org.uk/articles/oecd/tears.htm>

In 2002, U.S. delegates pressed for greater support for the OECD's Arrangement on Guidelines for Officially Supported Export Credits, which restricts the use of tied aid financing in promoting exports. They gained support in 2002 for a U.S. proposal to merge and update two agreements that banned tied aid in Central and Eastern Europe and key countries of the former Soviet Union, respectively, and formally incorporated the new agreement into the Arrangement. The United States also proposed applying the rules governing the use of tied aid to untied aid and a formal review of the use of "market windows," or quasi-government financial institutions that support national exports, but are not subject to multilateral rules. U.S. negotiators oppose the efforts by some OECD members to shift the issue of export credit controls to the World Trade Organization (WTO), because U.S. negotiators believe that a consensus favoring controls on export financing would be unlikely since the WTO forum would include those very developing countries that benefit the most from export credit subsidies.

U.S. delegates have also placed a high priority on international investment issues in the OECD. As part of the OECD's Declaration on International Investment and Multinational Enterprises, each OECD member has designated national contact points (NCPs), or the government agencies designated by each country to monitor implementation of the Guidelines within their territory. The U.S. national contact point is the Director of the Office of Investment Affairs, the Department of State. The United States also pressed for and contributed to a working paper on the general treatment and expropriation obligations in international investment agreements in order to clarify the content of those obligations for arbitrators, investors, and the international community. U. S. efforts also focused on the OECD's High Level Process on Steel to address overcapacity in the global steel market and any market-distorting practices that contribute to excessive and inefficient steel capacity. In December 2002, participants agreed to develop the elements of an agreement for reducing or eliminating trade-distorting subsidies in steel and to explore developing a voluntary commitment to refrain from introducing new subsidy programs that may maintain or enhance steel capacity. The United States also supported efforts to establish a joint trade capacity building database to assist trade negotiators from developing countries.

Another area of concern for U.S. delegates has been the issue of tax havens. During the last half of the 1990's, the OECD member countries initiated efforts to curtail the use of tax havens for illicit tax purposes as part of their efforts to curb "harmful tax competition."<sup>8</sup> The OECD member countries defined harmful tax competition as attempts to attract foreign investment in financial and other mobile services by providing preferential tax treatment to such investment through a regime that excludes local residents from benefitting from the regime or that limits access to the local market, thereby protecting the local market from foreign competition, coupled with a lack of transparency and a lack of effective exchange of information for tax purposes. OECD member countries initiated these efforts because they were concerned that certain kinds of tax competition for internationally mobile capital were anticompetitive. This project has evolved over time. The main focus now has shifted to improving the transparency of tax and regulatory regimes and to establishing effective exchange of information for tax purposes. U.S. delegates led the efforts to refocus the project on advancing the longstanding policy of promoting the exchange of information for tax purposes.

The issues of bribery and tax havens have been major concerns among the OECD's members and have prompted certain changes in U.S. laws. International flows of capital and goods and services

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<sup>8</sup> *Harmful Tax Competition: An Emerging Global Issue*. Organization for Economic Cooperation and Development, Paris, 1998. [http://www.oecd.org/daf/fa/harm\\_tax/harmultax\\_eng.pdf](http://www.oecd.org/daf/fa/harm_tax/harmultax_eng.pdf)

around the world, a phenomenon referred to as globalization, have grown dramatically over the last decade and are producing significant challenges for the OECD member countries, including the United States. International flows of capital are the prime mover behind exchange rates and global flows of goods and services, and represent the heightened growth of foreign investment and cross-border business transactions. One outcome of this global expansion of business transactions, however, has been the increased use by multinational corporations and nations of voluntary, legally enforceable, and industry-specific codes of conduct. One such code promoted by the OECD is the Convention on Bribery of Foreign Public Officials in International Business Transactions, which focuses on a set of issues related to the bribing of public officials. Since the Convention entered into force on February 15, 1999, 37 countries, including the United States,<sup>9</sup> have passed national legislation implementing the Convention. The U.S. delegates also pushed to have the OECD update its landmark 1998 study on Counterfeiting and Piracy to determine the extent and current impact of these activities and to improve law enforcement efforts among OECD countries.

Since the terrorist attacks of September 11, the Financial Action Task Force on Money Laundering (FATF), the body within the OECD that has pursued improvements in the anti-money laundering mechanisms in tax havens and among its own member countries, has redirected its efforts to focus on terrorist financing. In April 1990, FATF released its Forty Recommendations, which provide its members with a comprehensive plan for combating money laundering. On October 31, 2001, the FATF issued a new set of guidelines and a set of Special Recommendations on terrorist financing<sup>10</sup> (updated in 2004). In the accompanying statement, the FATF indicated that it had broadened its mission beyond the issue of money laundering to focus on combating terrorist financing and that it was encouraging all countries to abide by the new set of guidelines. The Nine Special Recommendations agreed to by the FATF members are:

- Take immediate steps to ratify and implement the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism and Security Council Resolution 1373 dealing with the prevention and suppression of the financing of terrorist acts;
- Criminalize the financing of terrorism, terrorist acts and terrorist organizations;
- Freeze and confiscate funds or other assets of terrorists, adopt measures which allow authorities to seize and confiscate property;
- Report funds they believed are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organizations;
- Provide the widest possible range of assistance to other countries' law enforcement and regulatory authorities in connection with criminal, civil enforcement, and administrative investigations;
- Impose anti-money laundering requirements on alternative remittance systems;
- Strengthen customer identification requirements on financial institutions for domestic and international wire transfers of funds;

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<sup>9</sup> P.L. 105-366, November 10, 1998.

<sup>10</sup> *FATF Cracks Down on Terrorist Financing*. Washington, FATF, October 31, 2001, p. 1.

- Ensure that entities such as non-profit organizations cannot be misused to finance terrorism.
- Countries should have measures in place to detect the physical transportation of currency or bearer negotiable instruments (cash couriers), including a declaration system or other disclosure obligation.

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